



Permit Rationale

Tennessee Department of Environment and Conservation *General Aquatic Resource Alteration Permit for Natural Resource Conservation Service-Designed Streambank Stabilization as a Federal Action*

December 18, 2020

The Tennessee Department of Environment and Conservation exists to enhance the quality of life for citizens of Tennessee and to be stewards of our natural environment by:

- Protecting and improving the quality of Tennessee's air, land, and water through a responsible regulatory system
- Protecting and promoting human health and safety
- Conserving and promoting natural, cultural and historic resources
- Providing a variety of quality outdoor recreational experiences.

TDEC accomplishes their mission, in part, by issuing permits that govern the conduct of activities that alter the physical, chemical, radiological, biological, or bacteriological properties of any waters of the state.

The Natural Resources Conservation Service (NRCS) is an agency of the United States Department of Agriculture that provides technical and financial assistance to farmers and other private landowners and managers. The NRCS seeks to accomplish its mission of delivering conservation solutions so agricultural producers can protect natural resources and feed a growing world, and fulfill the NRCS vision of a world of clean and abundant water, healthy soils, resilient landscapes, and thriving agricultural communities through voluntary conservation.

A portion of the practices utilized by NRCS in support of assisting their customers with conservation projects constitute activities that necessitate TDEC-issued water quality permits (e.g. streambank stabilization). Permits for the alteration of the State's aquatic resources are managed through TDEC's Division of Water Resources Aquatic Resource Alteration Permit (ARAP) program.

NRCS streambank stabilization projects are conducted to stabilize and protect banks of streams or constructed channels, and shorelines of lakes, reservoirs, or estuaries. These projects are designed to support one or more of the following purposes:

- Prevent the loss of land or damage to the land uses or other facilities adjacent to the banks, including protection of known historical, archaeological, and traditional cultural properties.
- Maintain the flow or storage capacity of the streams or channels.
- Reduce the off-site or downstream effects of sediment resulting from bank erosion.
- Improve or enhance the stream corridor for fish and wildlife habitat, aesthetics, and recreation.

Public Chapter 589 of the 2019-2020 TN General Assembly amends Tennessee Code Annotated, Section 69-3-108, to provide for the development of a general permit specific to watershed activities where the site-specific design has been developed through full application of Tennessee's NRCS Practice Standard 580, Streambank and Shoreline Protection; and, NRCS Engineering Field Handbook, Chapter 16, Streambank and Shoreline Protection (NRCS Streambank Standards) – provided the activities are subject to NRCS oversight as a federal action.

This General Permit fulfills the mandate of Public Chapter 589, and identifies standards of design, construction, operation, maintenance, and reporting associated with the permitted activities. It is a general permit that requires the applicant to notify the Commissioner of the planned activity and receive a notice of coverage from the Commissioner prior to implementing the activity in accordance with the terms and conditions of the General Permit per Rule 0400-40-07-.04(1).

Applicants for coverage under this General Permit are the landowner or other entity that is subject to the federal action. The applicant for coverage is not NRCS. Accordingly, the permittee is the landowner or other entity subject to the federal action. The permitter is TDEC.

Intervention into stream corridors to affect rehabilitation should be done on a selective basis considering that streambank erosion is a natural process and frequently occurs in many natural streams that have vegetated banks; and, any modification or alteration to this type of dynamic system will produce off-setting change within the system.

Treatment options are not limited to the “least-cost-alternative.” While NRCS payment rates are limited to the least-cost alternative to meet quality criteria and the minimum practice standards and specifications needed to address the resource concerns, this limitation is only applicable to the payment rates and does not limit choice of treatment options provided the treatment options meet NRCS standards and specifications, address the identified resource concern, and are approved by an individual with NRCS job approval authority.

Coverage under this General Permit will not be granted if there is indication within the submittal that a critical element(s) of the NRCS Streambank Standards has not been applied to the design consideration. Exceptions to coverage denial will be considered upon TDEC's evaluation of any explanation or description provided by an individual with NRCS job approval authority for completing the site-specific design package.